

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS

3
4 Timothy M. Reaves,)
5 Plaintiff,)
6 vs.) Case No. 15cv40100-TSH
7)
8 Department of Correction,)
9 et al.,)
10 Defendants.)

11 BEFORE: The Honorable Timothy S. Hillman

12 Remote Continued Motion Hearing

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15 United States District Court
16 Courtroom No. 2
17 595 Main Street
18 Worcester, Massachusetts
19 April 15, 2020

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23 Official Court Reporter
24 United States District Court
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I N D E X

Witnesses:_____ Direct_____ Cross_____ Redirect_____ Recross_____

Carol Mici
(By Ms. Petit) 6

E X H I B I T S

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THE CLERK: Okay. Case No. 15-40100, Reaves versus

MS. PETIT: Lauren Petit for the plaintiff, Timothy

MS. PETIT: Good morning.

MR. O'DONNELL: Good morning, your Honor. Ted

Mr. Castles, would you swear in the commissioner,
please.

Do you solemnly swear the testimony you are about to give this Court will be the truth, the whole truth, and nothing but the truth so help you God?

THE CLERK: Please state your name and spell your last name for the record.

THE COURT: Good morning, Commissioner, and thank you for appearing via video.

DIRECT EXAMINATION

1 BY MS. PETIT:

2 Q. Good morning, Commissioner Mici.

3 A. Good morning.

4 Q. You are aware of this Court's July 31, 2019, order that
5 DOC must immediately transfer Mr. Reaves to a noncorrectional
6 facility; is that right?

7 A. Correct.

8 Q. And is it fair to say that you were aware of that order
9 when it was first issued?

10 A. Yes.

11 Q. And did you understand that order to require you as the
12 commissioner to do anything?

13 A. I was not the commissioner at the time of the order, but
14 since then, yes. The order was July of 2019, I believe.

15 Q. Right.

16 A. Oh, I was the commissioner. My apologies. All the days
17 are blending together.

18 Q. Okay. And what -- what is your understanding of what that
19 order requires you as the commissioner to do?

20 A. That the staff within the Department in working with
21 parole would work with any entity on the outside to try to
22 secure a placement for Mr. Reaves.

23 Q. And what actions did you take in response to the order?

24 A. Just what I stated, that the staff that work for me needed
25 to actively search. That includes Wellpath, DOC, and parole,

1 if applicable at the time, to search for a placement that his
2 medical needs could be met.

3 Q. So just to clarify, what I'm understanding you to say is
4 that you in response to the order you delegated that
5 responsibility to certain staff who you supervise?

6 A. Correct.

7 Q. Okay. We've previously stipulated that DOC moved
8 Mr. Reaves to the Shattuck Hospital correctional wing on
9 August 3rd.

10 Would you agree that that move does not fully comply
11 with the order?

12 A. Correct. It's -- it's still a Department of Correction
13 unit or ward.

14 Q. Okay. And there's also no spinal cord injury specialist
15 there; is that right?

16 A. To my knowledge, there is not.

17 Q. Mr. Reaves accepts care more readily at Shattuck Hospital
18 than he did at Shirley; is that right?

19 A. I -- I -- I would not know the answer to that today.

20 Q. Okay. You've never inquired how -- how things were going
21 with Mr. Reaves at Shattuck in terms of his care?

22 A. So personally, I have not, but, yes, my staff have.

23 Q. And have they reported to you?

24 A. That he is at the Shattuck and doing okay, yes. But I
25 don't have -- I don't -- I couldn't tell you any particulars

1 about his everyday care.

2 Q. Okay. Have you ever spoken directly with Christina
3 Devincent of Wellpath about finding placement for Mr. Reaves?

4 A. I personally have not spoken to her.

5 Q. Did you in any way convey to Ms. Devincent through, you
6 know, correspondence or through another person how -- how she
7 needed to -- to present Mr. Reaves in order to be able to
8 secure placement?

9 A. So I've had a couple of conference calls over the past few
10 months that I know that Wellpath was involved with, and it has
11 been discussed that we need to take every step possible to try
12 to secure placement; but generally, the deputy commissioner
13 that works for me and the assistant deputy commissioner that
14 oversee clinical services handle that area and report to me as
15 necessary.

16 Q. And those deputies would be Deputy Hallett and Deputy
17 Sullivan; is that right?

18 A. Those are the assistant deputy commissioners, correct, and
19 then also Assistant Deputy Commissioner Jenn Gaffney.

20 Q. I see. Did you at any point convey to anyone regarding
21 finding placement for Mr. Reaves that his traumatic brain
22 injury should be highlighted?

23 A. So his specific medical needs, everything needs to be
24 highlighted. He has to go to a place that they can handle all
25 of his medical care.

1 Did I specifically talk about specific diagnoses, no,
2 I didn't. I -- I personally have not.

3 Q. Did you ever request to see the information packet that
4 Ms. Devincent was distributing to potential placements to get a
5 sense for how they represented Mr. Reaves and his needs?

6 A. Yes.

7 Q. And when did you review that packet?

8 A. That was, I believe, it was part of a conference call.
9 The date, I do not know, but I did see -- I did see a copy of
10 what was being presented to the outside entities.

11 Q. And hopefully you were provided with the exhibits that
12 were entered by agreement in the previous hearing, what was
13 marked as Exhibit 2, which is a patient profile summary.

14 Do you have that?

15 A. I believe I do. Exhibit 2, I do, yes.

16 Q. Okay. Is this what the packet was that you reviewed?

17 A. It looks to be the same packet, yes.

18 Q. Okay. And this packet is medical records from when
19 Mr. Reaves was at MCI-Shirley, correct?

20 A. Yes, that's the address on it, correct.

21 Q. And at some point the medical records from MCI-Shirley
22 became stale and were no longer up-to-date, wouldn't that be
23 right?

24 A. I mean I think they're important, but certainly as things
25 progressed and you need to add, you need to add to the medical

1 record as well --

2 Q. And --

3 A. -- to keep them up-to-date.

4 Q. And is it your understanding that records from Shattuck
5 would indicate much greater compliance by Mr. Reaves with his
6 care than the records from Shirley?

7 A. I would need to see the records from the Shattuck so I
8 couldn't answer that fully. I -- I have not seen those
9 records.

10 Q. This Court also denied defendant's motion requesting a
11 stay of the Court's July 31st order for the transfer; is that
12 right?

13 A. Can you repeat that, please. When did that occur?

14 Q. Well, on September 19th of 2019, were you aware that this
15 Court denied defendant's motion to stay its order requiring the
16 transfer of Mr. Reaves?

17 A. Yes.

18 Q. And did you take any specific action in response to that
19 denial of the stay?

20 A. Yes, I -- you know, again, dates and times I'm not sure,
21 but certainly there has been correspondence throughout this
22 process as to what -- what our next steps can be.

23 Q. And what were some of the next steps that were suggested?

24 A. We had to continue to seek for placement on the
25 outside -- I mean, we had to continue our search.

1 Q. Did you ever communicate directly with the head of the
2 Department of Public Health, agency head to agency head, to
3 explain to them the DOC's need to comply with this order and
4 request that they accept Mr. Reaves as a patient?

5 A. So I did not, but my deputy commissioner did. To her
6 counterpart.

7 Q. Which deputy commissioner?

8 A. That would be Jenn Gaffney.

9 Q. And did either you or Deputy Gaffney or any other DOC
10 staff person discuss with the Department of Public Health the
11 statutory provision in General Laws Chapter 127 Section 151 and
12 whether that statute requires DPH to accept medical parolee at
13 Tewksbury Hospital?

14 MR. O'DONNELL: Objection.

15 THE WITNESS: I would not know the -- I don't know
16 what specifics if -- if, you know, Mass. General Laws were
17 quoted, but I know that --

18 MR. O'DONNELL: Objection.

19 THE COURT: Sustained.

20 BY MS. PETIT:

21 Q. So one way for the DOC to comply with the Court's order
22 was to grant Mr. Reaves's petition for medical parole to an
23 outside facility; is that right?

24 A. Yes.

25 Q. And the DOC also had the ability to transfer Mr. Reaves to

1 a non-DOC hospital in Massachusetts for treatment, as they do
2 with other patients who require treatment that's not available
3 at the hosp -- at the prison; is that right?

4 A. I'm not following. On medical parole or just in a general
5 sense while in custody?

6 Q. While in custody?

7 A. While in custody it, we do use outside hospitals, correct,
8 for treatment.

9 Q. So that could have been another option for a way to comply
10 with the Court's order?

11 A. We certainly do try to use the Shattuck for anything
12 long-term. I -- I would not think that would be compliant,
13 because the inmate would still be in custody. That wasn't --
14 that's not medical parole or a release to an outside entity.

15 Q. Is it your understanding that the order required a release
16 or a transfer?

17 A. I have to look at the order again. At least to transfer
18 to a facility that could handle his needs.

19 Q. So we've stipulated between the parties that Mr. Reaves
20 filed a petition for medical parole on June 28, 2018, and that
21 the superintendent thereafter forwarded his recommendation to
22 the then commissioner, who was Commissioner Turco, on July 9th
23 of 2018.

24 The medical parole statute requires that the
25 commissioner issue a decision within 40 day -- 45 days of

1 receiving the superintendent's recommendation; is that correct?

2 A. Yes.

3 Q. There was -- we've also stipulated that there was a
4 hearing on Mr. Reaves's petition for medical parole on
5 August 7th of 2018.

6 You were present at that hearing, weren't you?

7 A. I was at that hearing, yes.

8 Q. And then Commissioner Turco was prepared to issue a
9 decision on Mr. Reaves's petition the following day, on
10 August 18th; isn't that right?

11 A. It -- I -- I didn't issue the decision. I don't know if
12 that was the date or not. I would have to look at the
13 paperwork.

14 Q. Okay. So if you could turn to what would be
15 exhibit -- the exhibit that has been agreed for Exhibit 7,
16 which is a set of emails between Nancy White, the DOC General
17 Counsel and myself, dated August 8, 2018.

18 A. Which exhibit?

19 Q. It's a new one; seven, it would be. So it should have
20 been emailed to you this morning is my understanding.

21 THE COURT: Are you moving that in?

22 MR. O'DONNELL: Your Honor, I would like to -- I would
23 like to lodge an objection.

24 THE COURT: Hold up. So let's start,

25 Ms. -- Ms. Petit, are you moving that?

1 MS. PETIT: I thought that we had agreed this morning
2 that all of these would be moved in.

3 THE COURT: All right. Mr. O'Donnell, what do you
4 want to say?

5 MR. O'DONNELL: I -- I don't dispute that that exhibit
6 may come in, but I don't know that the commissioner has any
7 awareness of it, and so I don't know why she's being questioned
8 about it. It can speak for itself, it's a written document.

9 THE COURT: All right. Well, it's admitted as 7, and
10 let's see where this goes.

11 Ms. Petit, you may inquire, and we'll take it on a
12 question-by-question basis.

13 (Exhibit No. 7 was admitted into evidence.)

14 MS. PETIT: Thank you.

15 BY MS. PETIT:

16 Q. So, Commissioner, if you could look at Exhibit 7 on the
17 very first page of the first email from Nancy White at the
18 bottom of the large paragraph -- oh, no. Sorry. At the top of
19 the --

20 A. I don't have anything marked Exhibit 7. So you're going
21 to have to guide me. I have nothing here.

22 Q. All right. Do you have a document that is an email
23 exchange between Nancy White and myself and a few other folks
24 on there dated Wednesday, August 8, 2018?

25 A. (Witness reviewing documents.) It stops after six.

1 Q. Right. Those were the exhibits that were entered in the
2 last hearing last week. So there's another group of, I think,
3 four exhibits that I understand that Mr. O'Donnell emailed to
4 you this morning so...

5 A. Okay. So maybe you can describe it and date it again, I'm
6 sorry, and I can find it through here.

7 Q. Sure. It's August 8, 2018. And it's a document that
8 contains a few emails back and forth between Nancy White and
9 myself and a few other folks on there.

10 MR. O'DONNELL: Your Honor, I'd like to re -- relodge
11 my objection. If the Commissioner is not familiar with this
12 document, it's in evidence. Attorney Petit can use it in
13 argument or in her written, you know, filing. I don't see why
14 Commissioner Mici is being asked about it if she is so
15 unfamiliar with it.

16 THE COURT: Well, I actually haven't heard a question
17 about it because we still haven't -- the witness hasn't been
18 able to find the documents.

19 THE WITNESS: I don't have it. Sorry. I cannot find
20 it here.

21 THE COURT: Let's move on then, Ms. Petit.

22 MS. PETIT: Okay. Well, I think it's important that
23 the agreed exhibits get sent to the Commissioner.

24 Ted, are you able to send that or should I do it if
25 she didn't receive the email that you intended to send earlier?

1 MR. O'DONNELL: I sent an email to her executive
2 assistant, Michelle Farrell, after receiving the exhibits from
3 you this morning, and I asked Ms. Farrell to get them to the
4 commissioner.

5 MS. PETIT: Okay.

6 BY MS. PETIT:

7 Q. All right. Were you involved in discussion with
8 Commissioner Turco and anyone else immediately following the
9 August 7, 2018, hearing on Mr. Reaves's parole petition about
10 whether that petition should be granted?

11 A. I'm sure I was part of conversations because I was the
12 deputy commissioner overseeing clinical services, but there
13 was -- there was many of them, and it was quite a long time
14 ago, so, I mean, can't be specific, but I'm sure I was a part
15 of a conversation or two about it.

16 Q. And you don't recall whether a decision was arrived at?

17 A. No, I didn't say that. I know a decision was derived. I
18 just -- I don't recall every meeting we had about this
19 particular case or any other, yeah, that's all.

20 Q. Okay. So let me ask then was a decision arrived at
21 immediately following that hearing about whether Mr. Reaves's
22 petition should be granted?

23 A. Yes, a decision was made.

24 Q. And were you present for that?

25 A. It was a decision in writing, I believe. I -- I may have

1 been cc'd. I don't know that I was part of the decision
2 process.

3 Q. And at that time there was no finalized parole plan in
4 place for Mr. Reaves; is that right?

5 A. That's correct.

6 Q. Also at that time the Department of Correction interpreted
7 the medical parole statute to require that the petitioner
8 deliver a finalized parole plan to the Department prior to any
9 parole, medical parole, being granted; is that right?

10 A. Yes.

11 Q. On February 13th you sent a letter, which it -- which you
12 should have as Exhibit 3, to Kevin Keefe at Massachusetts
13 Parole Board regarding your consideration of Mr. Reaves's
14 petition; is that right?

15 A. Yes.

16 Q. And he responded to you on February 18th indicating that
17 the parole transfer process couldn't begin until after the
18 parole was granted; isn't that right?

19 A. Yes.

20 Q. He also listed some information about people who would
21 need to be contacted in order to take part in -- in parts of
22 the process that would need to be taken care of?

23 A. Yes.

24 Q. And did you contact the people listed there or did
25 anyone -- did you contact them personally or direct anyone else

1 to contact those people?

2 A. I'm just reviewing the -- the group of people. And I'm
3 just -- can you just tell me which letter back from Kevin Keefe
4 you're referring to? I'm sorry. There's a lot of documents in
5 front of me.

6 Q. Sure. It would be Exhibit 4.

7 A. Okay. Thank you. (Reviewing document.) Okay.

8 Q. I'm looking at the paragraph at the top of page 2 of
9 Exhibit 4.

10 A. Okay. So the only person I spoke to on this list would
11 have been Mr. Landi. The other, it would be Jenn Gaffney and
12 Allison Hallett's units would handle that piece and handled
13 and worked it out with those people or at least reached out to
14 them for next steps.

15 Q. And so did you direct them to do that?

16 A. Yes, they -- yes, because Jennifer Gaffney is cc'd and so
17 is Stephanie at the bottom of this. So, yes, they were aware
18 that we -- and we certainly talked about it.

19 Q. And are you -- are you aware of whether those
20 conversations were, in fact, had by them? Conversations with
21 insurance?

22 A. Well, I'm assuming only the -- I don't know specifically
23 with these people, but certainly we had made some progress and
24 gotten some information since then, so conversations certainly
25 did occur.

1 Q. Okay. And what's the information that you're referring to
2 that was received since then?

3 A. So just the whole of how if -- if Mr. Reaves was accepted
4 at the iCare center in Connecticut, how would Medicaid in
5 Connecticut be achieved; do you need to be a resident? You
6 know, we have people who specialize somewhat in MassHealth here
7 in Massachusetts, so we were trying to figure out how it worked
8 in Connecticut. So there has been a lot of back and forth for
9 several weeks or months now trying to figure out that process.

10 Q. Okay. Has the requirement that someone be transferred to
11 another state's Department of Correction before they could be
12 paroled to another state ever been placed on anyone else?

13 A. Can you repeat that, please.

14 Q. Has DOC ever placed on another medical parole petitioner
15 the requirement that they first transfer to the Department of
16 Correction in another state?

17 A. I personally have not done that, no.

18 Q. And have -- has the DOC ever placed on another medical
19 parole petitioner the requirement that they be accepted by a
20 health insurance plan prior to being released?

21 A. In Massachusetts, absolutely, I have -- I make sure
22 there's Medicaid in place before they get released. I have not
23 done that in another state if that's what you are asking.

24 Q. Well, has -- have you ever made a grant conditional on the
25 acceptance by any health insurance, public or otherwise?

1 A. For a -- for a medical parole, no, it hasn't been part of
2 the condition -- conditioner or written into the statement, but
3 I haven't had any other cases like this.

4 Q. And -- and when you say "like this," do you mean in the
5 sense that he's parole -- he would be -- his plan is to parole
6 to a different state?

7 A. Correct. And -- right. It's just the first time I've
8 encountered this.

9 Q. Did you yourself or did you direct anyone else to seek
10 assistance from the parole board to determine how that process
11 works when the parole board transfers parole to another state
12 for their regular parole process?

13 A. Yes.

14 Q. Did you have that conversation or did someone else have
15 that conversation?

16 A. I -- I had that conversation as well as many other people
17 where -- where we talked about it several times.

18 Q. And what did you learn about what the regular practice is
19 for the parole board?

20 A. And it's discretionary. I think there's a 45-day period
21 that it could take; that the, you know, the supervision needs
22 to be the same in both states. It -- I mean, that's kind of
23 the gist of the process.

24 Q. Okay. So what I'm asking specifically is whether you've
25 had any communication with the parole board about how the

1 health insurance piece works when a parolee is transferring to
2 another state?

3 A. I have not had that about in general. I had it about
4 Mr. Reaves, but I haven't had it about anyone else that I can
5 recall.

6 Q. The medical parole statute requires that the commissioner
7 issue a decision within 45 days of receiving the
8 superintendent's recommendation, correct?

9 A. Correct.

10 Q. And is there a process in place from the Department to
11 ensure that you respond in a timely way within that deadline?

12 A. Yes.

13 MS. PETIT: We've stipulated that the time line for
14 the Commissioner's decision was stayed on August 8, 2018, and
15 that the plaintiff submitted a supplement to his petition on
16 January 16th of 2020 with a completed parole plan. Sorry.
17 I've -- okay.

18 Q. When you received the January 16th supplement that lifted
19 the stay that was in place, didn't it?

20 A. Yes.

21 Q. And at that time there were only 15 days remaining on your
22 45-day time period to issue a decision, weren't there?

23 MR. O'DONNELL: Objection.

24 THE COURT: Overruled. You may answer.

25 THE WITNESS: If -- yes, I have to look at the dates

1 again, but if you're saying there was 15 more, I -- from the
2 date it was -- their stay was removed you said was it
3 January 16th?

4 Q. So the -- the superintendent's recommendation went to
5 Commissioner Turco on July 9th, and the stay was put in place
6 on August 8th of 2018 --

7 A. Yeah.

8 Q. -- which I -- I looked at a calendar, and it looks like
9 30 days to me.

10 A. Yes.

11 Q. And so that would leave 15 days on the commissioner's time
12 period when the stay is lifted; is that right?

13 A. Sure.

14 MR. O'DONNELL: Objection.

15 THE WITNESS: Yeah.

16 THE COURT: Overruled.

17 Q. So if 15 days from January 16th of 2020 is January 31st,
18 why did you not issue a decision on Mr. Reaves's parole
19 petition by that date?

20 A. So when I issue a parole decision, it has to have all the
21 pieces in place. I need to make sure that the inmate has a
22 place to go; that insurance is in place; that we have done all
23 the outreach we can so the parole is successful. To issue a
24 decision before I have any of that information is not really
25 responsible. So it took a little bit longer, but there was a

1 lot -- there's a lot more involved in this case than some of
2 the other medical paroles that I have encountered. So it
3 wasn't just --

4 Q. What --

5 A. -- lackadaisical. It was just trying to get the right
6 information so I could put the decision together.

7 Q. The supplement on January 16th of 2020 which lifted the
8 stay included the clinical acceptance at iCare in Connecticut,
9 right?

10 A. Yes.

11 Q. So there -- there was a place to go on the 16th?

12 A. According to a piece of paper there was, but I -- I
13 have -- I've talked to Mike Landi and I went to his Connect --
14 I went to his facility. It's not the Connecticut one. I need
15 to make sure it's appropriate; and this is my decision, so yes,
16 I probably do a little more digging than maybe others. Not in
17 just -- not in just this medical parole, in many of them, so
18 yes, it took some time. Whether he had been placed or not he
19 has to have insurance. Somebody has to pay for this.

20 Q. There has been other petitioners for medical parole, more
21 than one, who has been released without MassHealth in place;
22 isn't that right?

23 A. I can think of one that we -- yes, that because the person
24 was over a certain age we're learning too. Medical parole is
25 new. So, yes, and we scrambled, but we made sure that person

1 got their medical care for all the time that the person wasn't
2 covered. And even though the person wasn't in my custody, I
3 was on the phone almost every day to make sure that person was
4 covered. So I don't want to ever have to go through that
5 again. That's not fair to the person on medical parole.

6 Q. In fact, that happened again just last week, didn't it?

7 A. I -- I don't know. Not to my knowledge. I'd have to be
8 reminded. There has been a lot of medical paroles that have
9 gone out in the last couple of weeks, so I was not aware of
10 that one.

11 Q. But in any case your testimony is that it has not been a
12 requirement for any other medical parole petitioner that the
13 insurance actually be in place prior to the grant; is that
14 correct?

15 A. No, I disagree.

16 MR. O'DONNELL: Your Honor, I object.

17 THE COURT: Well, overruled. You may answer,
18 Commissioner.

19 THE WITNESS: So have I put it in writing on the
20 medical parole petition or the approval or the denial, no, but
21 do I make sure it's in place because I learned from that person
22 who was over a certain age and had assets? Yes. I asked those
23 questions, and I put more checkmarks in place before the person
24 goes out. And I personally asked to be notified before the
25 person goes out so I know that everything's in place.

1 BY MS. PETIT:

2 Q. If I were to represent to you that there is one woman who
3 my office represented on medical parole who was released to a
4 home in Massachusetts without her MassHealth being put in place
5 by the DOC and one man who was granted medical parole and
6 released last week to a home without MassHealth in place, would
7 you have any reason to disagree with that?

8 A. I would not disagree with the female. I am unaware of the
9 male.

10 MS. PETIT: Your Honor, I would like to proffer that
11 there was a male whose name I can give if -- if the Court is
12 interested in -- in that, who was released on medical parole
13 last week by the Department of Correction without MassHealth in
14 place.

15 THE COURT: Let's keep going.

16 MR. O'DONNELL: Your Honor, I object.

17 THE COURT: Hold up. Let's keep -- let's finish with
18 the Commissioner, and you can make your proffer.

19 BY MS. PETIT:

20 Q. The Department of Correction policy on medical parole
21 specifically allows for a conditional grant to be made
22 conditioned upon the receiving state accepting the parolee for
23 parole supervision; is that right?

24 A. Yes.

25 Q. And that was true in -- on January 16th as well as on

1 March 20th when you made your decision?

2 A. Yes.

3 Q. In your decision, which I believe is Exhibit 5, if you
4 need to refer to it, the one condition that you imposed is that
5 Mr. Reaves be accepted by the State of Connecticut for parole
6 supervision, correct?

7 A. Yes.

8 Q. And Mr. Reaves thumbprinted the interstate parole contract
9 for that on April 1st of this year?

10 A. Yes. Yes.

11 Q. And that -- that request was then submitted to Connecticut
12 parole?

13 A. Correct.

14 Q. Have you received any response to that request?

15 A. From Connecticut parole?

16 Q. Yes.

17 A. I have not received anything from Connecticut parole, no.

18 Q. And is it your understanding that Connecticut parole is
19 currently not accepting interstate transfers for parole
20 supervision due to the COVID pandemic?

21 A. Yes. I got that notice, yes.

22 Q. Okay. Is it your understanding that they'll still accept
23 and consider the requests though they won't actually accept the
24 physical transfer?

25 A. That is my understanding, yes.

1 Q. A second condition that you placed on Mr. Reaves's grant
2 of medical parole is that he be accepted for Connecticut
3 Medicaid coverage prior to the grant becoming effective,
4 correct?

5 A. Yes.

6 Q. And Mr. Reaves can't actually apply for Connecticut
7 Medicaid until he is a resident of the State of Connecticut;
8 isn't that right?

9 A. That is what I am told.

10 Q. So how -- what is your understanding of how it will be
11 possible for Mr. Reaves to meet that condition?

12 A. Well, we're still trying to work that piece out, but what
13 I did think of was if I could paper -- I have quotes going --
14 paper transfer Mr. Reaves to the Connecticut Department of
15 Correction knowing they have at least two opportunities for
16 medical parole. I believe they have compassionate release as
17 well. If I could make him a resident of the State of
18 Connecticut could he get Medicaid that way; and then once
19 that's in place, transfer him to a facility that has accepted
20 him.

21 I had a conversation with the commissioner from
22 Connecticut in the last 30 days probably to see if that was
23 possible, and I know that he has reached out to me. He doesn't
24 have an answer yet, but it is something that he certainly is
25 contemplating. My intention is not to put Mr. Reaves in the

1 Connecticut Department of Correction. My intention is to help
2 him get Medicaid to get him to the place where he can get the
3 care he needs and be out on medical parole.

4 Q. So would Mr. Reaves be able to be medically paroled to
5 Connecticut without first accepting an interstate transfer to
6 the Connecticut Department of Corrections?

7 A. That's the question -- I don't know. We're still trying
8 to figure that out. I -- I think it's absolutely possible
9 from -- from the conversations. It's just no one has given me
10 that acceptance yet. So I -- I -- I'm hoping to hear.
11 Obviously, COVID has not helped this case or many others. So
12 we're really in a waiting game right now. I think it's
13 absolutely possible. I was just trying to think outside the
14 box to try to expedite this process because we're having so
15 much -- there was so much red tape involved in the medical part
16 of this or the Medicaid/Medicare, whatever it's called, in
17 Connecticut. So that's all I was trying to do.

18 Q. So if there was a way to achieve the transfer of
19 Mr. Reaves without a transfer to Connecticut DOC, would you be
20 willing to amend your grant of parole to take that condition
21 away?

22 A. Yes, if it's workable. Certainly I would entertain what
23 the -- how -- how it could work. And if it -- if it would work
24 for everybody, yes.

25 Q. And just to clarify, I think this is what I correctly

1 understood from what you said, but let me know. You have no
2 confirmation at this point that -- that a transfer, whether
3 paper or in person to Connecticut will solve the Medicaid issue
4 for Mr. Reaves?

5 A. I -- I do not have that confirmation yet.

6 Q. So despite the issues with medical parole, the Department
7 of Correction still has an obligation to comply with the
8 Court's order to transfer Mr. Reaves, does it not?

9 A. It does.

10 Q. Would you say that Mr. Reaves is at great risk if he were
11 to contract COVID?

12 MR. O'DONNELL: Objection.

13 THE COURT: Sustained.

14 BY MS. PETIT:

15 Q. There are both prisoner and staff members at the Lemuel
16 Shattuck correctional floor who have tested positive for COVID;
17 is that right?

18 A. I'm aware of one inmate who has been moved from the floor,
19 and I believe there is one staff member that I am aware of.
20 I would have to -- I mean, I have a tracking system but I
21 believe that is true, Ms. Petit.

22 Q. If you had granted Mr. Reaves's petition by January 31st,
23 which would have been 15 days after the January 16th
24 supplement, he could potentially have been transferred to
25 Connecticut prior to the -- all of the restrictions that COVID

1 has brought on sort of across the system; is that right?

2 MR. O'DONNELL: Objection.

3 THE COURT: Sustained.

4 THE WITNESS: So I don't think I can answer that --

5 THE COURT: Don't --

6 THE WITNESS: -- because it's not in my hands.

7 THE COURT: You don't have to answer that,
8 Commissioner.

9 THE WITNESS: Oh, I'm sorry. Thank you. You said
10 "sustained."

11 THE COURT: Next question, please.

12 BY MS. PETIT:

13 Q. Have you done anything -- given the restrictions and sort
14 of roadblocks that COVID has placed at different steps
15 throughout this process, have you done anything since the COVID
16 pandemic has had that impact to ensure that things are set up
17 for Mr. Reaves to transfer immediately upon those restrictions
18 being lifted?

19 A. Well, what I can say to that is that I haven't stopped
20 working on the case just because COVID hit. It's -- it's a --
21 it's something that's active. As much as this morning as I got
22 an email from parole about it, which I haven't read yet because
23 I was slated for this, but I haven't stopped any -- none of my
24 staff have stopped efforts for this.

25 Q. And what are those efforts focused on at this point?

1 A. Working with parole to get him to the facility in parole
2 and making sure he has insurance to cover it, to cover all the
3 expenses.

4 MS. PETIT: Thank you. I have no further questions.

5 THE COURT: Mr. O'Donnell.

6 MR. O'DONNELL: I don't have any follow-up for the
7 commissioner, your Honor.

8 THE COURT: Thank you.

9 Thank you, Commissioner. You're free to ring off or
10 stay if you want.

11 THE WITNESS: I'm going to wing off, but thank you.

12 THE COURT: You're welcome.

13 MS. PETIT: Thank you.

14 THE WITNESS: Bye-bye.

15 THE COURT: So, counsel, do you -- do you want some
16 time to submit proposed findings and rulings?

17 MR. O'DONNELL: Yeah, I would, your Honor. Yes,
18 please.

19 THE COURT: Ms. Petit?

20 MS. PETIT: Yes, please.

21 THE COURT: How -- how much time do you all want?

22 MR. O'DONNELL: I'd like at least two weeks, your
23 Honor. There's a number of other things I have on my plate.

24 THE COURT: That's fine.

25 Ms. Petit, does that work for you as well?

1 MS. PETIT: Yeah, I could do it sooner than that, but
2 if that's what we need then --

3 THE COURT: If -- if there's any reason that -- that
4 he is going to be transferred or you need us to do something,
5 let me know, but it sounds like the COVID is going to put a
6 stay on this at least for the time being.

7 MS. PETIT: Well, I think that COVID is putting a stay
8 on the actual physical move, but I think -- I think we may have
9 gotten some good news this morning in -- in an email that may
10 be the same one that the Commissioner was referencing or
11 related one saying that he has been accepted by Connecticut
12 parole for transfer. So I think we're moving a
13 little -- moving a little bit.

14 THE COURT: I think that's -- that's a big one if
15 that's the case.

16 MS. PETIT: Right.

17 THE COURT: All right. Why don't you and
18 Mr. O'Donnell -- I know Mr. O'Donnell, I know both of you are
19 very, very busy. So let's go out two weeks.

20 Marty, let's have a -- let's have a -- a two-week date
21 for -- and we'll do -- we'll give you each a chance to make a
22 closing argument.

23 MS. PETIT: And you want the proposed facts before
24 that?

25 THE COURT: Let's -- let's do this. Let's do two

1 weeks for the proposed findings and rulings and then a couple
2 of days thereafter for me to digest them before I hear you.

3 And if that email that you received this morning needs
4 anything from the Court, you don't have to wait for two weeks.
5 Just get in touch with Mr. Castles.

6 MS. PETIT: Very good.

7 THE CLERK: How's May 5th at 10:30?

8 MS. PETIT: For the argument?

9 MR. O'DONNELL: Yeah, that -- that's fine for me.

10 MS. PETIT: I can do that.

11 THE COURT: Okay. See you. Stay safe and be well.

12 MS. PETIT: Thank you very much.

13 MR. O'DONNELL: Thank you.

14 (At 11:32 a.m., Court was adjourned.)
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C E R T I F I C A T E

I, Marianne Kusa-Ryll, RDR, CRR, do hereby
certify that the foregoing transcript is a true and accurate
transcription of my stenographic notes before the Honorable
Timothy S. Hillman, to the best of my skill, knowledge, and
ability.

/s/ Marianne Kusa-Ryll

4/17/2020

Marianne Kusa-Ryll, RDR, CRR

Date

Official Court Reporter